

**IN THE MATTER OF THE ADMINISTRATIVE CIVIL LIABILITY  
COMPLAINT  
NO. R5-2007-0505**

07 JUN 14 PM 3:12

**STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS AND  
REHABILITATION, MULE CREEK WASTEWATER PLANT  
AMADOR COUNTY**

**DISCHARGER'S PROPOSAL FOR A SUPPLEMENTAL ENVIRONMENTAL  
PROJECT**

On March 2, 2007, the Central Valley Regional Water Quality Control Board issued the above Administrative Civil Liability Complaint, and proposed an administrative civil liability (ACL) of fifty thousand dollars (\$50,000.00). Discharger has not opposed the proposed ACL, and herein makes its proposal to divert the amounts represented by the ACL to a Supplemental Environmental Project (SEP).

**PROJECT TITLE: DRY CREEK FENCING AND RIPARIAN RESTORATION  
PROJECT**

**GEOGRAPHIC AREA OF INTEREST: CENTRAL VALLEY REGION (Ione  
Valley)**

**NAME OF RESPONSIBLE ENTITY: CALIFORNIA DEPARTMENT OF  
CORRECTIONS (CDCR), acting through the FOOTHILL CONSERVANCY**

**ESTIMATED COST TO COMPLETION: \$50,000.00**

**CONTACT INFORMATION:** CHRISMAN L. SWANBERG  
Senior Staff Counsel  
California Department of Corrections and  
Rehabilitation  
Room 314S  
1515 S Street  
Sacramento, CA 95814

**BRIEF PROJECT DESCRIPTION:** CDCR proposes to devote the entire ACL amount of \$50,000 to a project wherein portions of Dry Creek, and its upper drainages in Amador County, California will be fenced to eliminate cattle from entering the creek. The project will identify property owners interested and willing to allow erection of fencing, and where appropriate, establishment of off-creek watering facilities to reduce the use of Dry Creek by cattle and eliminate the harmful effects caused thereby.

Studies have shown that cattle have a deleterious effect on creeks. They damage the riparian vegetation, reducing shading and raising creek temperatures thereby. They cause erosion and both thereby and also directly cause destruction of gravel beds used by native

species for reproduction. They also introduce pathogens into the creek through defecation in and near the creek and creekbed.

Dry Creek is one of several creeks that pass through the lower Ione basin, and whose flows, in part, recharge the groundwater basin there. Improvement of water quality in these creeks is vital to assisting in long term water quality in the basin.

As a water quality improvement project, this SEP has a logical and practical nexus to the violations giving rise to the ACL. As Dry Creek is in the lower Ione valley and runs nearby the CDCR prison there, the required geographical nexus is likewise present. No rule, ordinance, law, or order by any regulatory agency requires this project, and the benefit derived is not for the benefit of the discharger, or the Regional Water Board but for the water basin and the water quality therein as a whole.

**WATER BODY/POLLUTANT ADDRESSED:** Dry Creek and its tributaries. Nitrates and coliform bacteria, sedimentation and riparian coverage.

**PROJECT PROPOSAL DETAILS (In addition to above):**

CDCR proposes to utilize the administrative and oversight capabilities of the Foothill Conservancy, an environmental group with principal offices in Pine Grove, California, to carry out this project. Their responsibility will be to identify areas of Dry Creek and tributaries impacted by cattle operations, and cooperatively enlist the property owners to enter into agreements to allow the affected creek areas to be fenced to eliminate cattle from entering the creek or damage the banks. They will either directly install or cause to be installed the requisite fencing along the creek. Typically the fencing will be 10-15 feet from the creek to protect not only the surface waters but the riparian habitat as well. CDCR will provide monies to the Foothill Conservancy in four increments of \$12,500. The first shall be upon approval of this SEP by the Regional Water Board, which payment shall mark the inception of the project. Three additional payments of an equal amount shall be paid to the Foothill Conservancy, on request accompanied with a project accounting demonstrating proper use of previously provided funds for fencing acquisition and installation. CDCR and Foothill Conservancy have agreed to 6% of the fund to be retained by the Foothills Conservancy to cover administrative and overhead costs in operating this SEP. At the time of this proposal, the Foothill Conservancy has already identified several property owners interested in participating in this project, and in time more are anticipated to participate. Participating owners will be required to commit to a definite period that the fencing will remain in place (10 years is the anticipated length of time) or will be required to reimburse for removal, based on a time based sliding scale.

The project will terminate one year after project inception, and any unexpended funds will be paid to the State Water Resources Control Board Waste Discharge Permit Fund and a final accounting will be provided, unless the project timeline is extended by the Board.

CDCR will be responsible to provide quarterly progress reports on the status of the SEP and the expenditures of monies associated – including areas fenced, both in location and total length of fencing installed, not less often than quarterly, commencing on a date 90 days following project approval. The Regional Water Board for good cause would agree to extend the reporting time when lack of activity does not warrant a report, such as during wet winter months. Should factors beyond the control of CDCR or the Foothill Conservancy prohibit completion of the project in the one year time period provided, the Regional Water Board would reserve the right to extend the time for full performance in their sole discretion and for good cause shown. The final report shall include a portion which shall set forth information to demonstrate watershed and water quality impacts of the project.